TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #15-325

DIGEST

Adds 405 IAC 10-11 to set forth provisions affecting employers and individuals concerning eligibility, enrollment, benefits, and policy for HIP Employer Benefit Link (HIP Link). Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

405 IAC 10-11

SECTION 1. 405 IAC 10-11 IS ADDED TO READ AS FOLLOWS:

Rule 11. HIP Employer Benefit Link

405 IAC 10-11-1 Intent and purpose

Authority: IC 12-15-44.2-19
Affected: IC 12-15-44.2-20

Sec. 1. Under IC 12-15-44.2, the office hereby adopts and promulgates this rule to implement the HIP Employer Benefit Link program.

(Office of the Secretary of Family and Social Services; 405 IAC 10-11-1)

405 IAC 10-11-2 Definitions

Authority: IC 12-15-44.2-19
Affected: IC 12-15-44.2-20

Sec. 2. For the purposes of this rule, the following definitions apply:
(1) "Affordable" means an ESI plan with a cost structure approved by CMS in which HIP Link members are predicted by the office to have sufficient funding for premiums and other potential out-of-pocket medical expenses within the HIP Link POWER account limit.
(2) "Employer" means an entity that is the sponsor of a health insurance or a group health insurance plan.
(3) "Employer-sponsored insurance" or "ESI" means an applicable group health insurance plan offered to employees by an employer or a multi-employer plan.
(4) "HIP Employer Benefit Link" or "HIP Link" means an optional defined contribution premium assistance program for HIP-eligible individuals with access to an ESI and meeting the HIP Link eligibility criteria in accordance with section 3 of this rule.
(5) "HIP Link eligible ESI plan" means an ESI plan that the office determines meets the requirements of section 10(d) of this rule.
(6) "HIP Link member" means an individual who meets the HIP Link eligibility criteria and is receiving benefits under section 5 of this rule.
(7) "Medicaid recipient" means an individual who is receiving benefits under any Medicaid category.
(8) "Special enrollment" means the period of time in which an employee is able to enroll for coverage under an ESI as outlined under 26 U.S.C. 9801(f)(3)(A)(ii).
(9) "Wraparound services" means the following health care services not included in the HIP Link eligible ESI plan:
(A) Services provided by a federally qualified health center as defined in 42 U.S.C. 1395x(aa)(2).
(B) Services provided by a rural health clinic as defined in 42 U.S.C. 1395x(aa)(4).
(C) Seventy-two (72) hour emergency prescription supply in accordance with 42 U.S.C. 1396r-8(d)(5)(B)(2).
(D) Family planning services.
(E) Nonemergency transportation services for the following groups:

(i) Transitional medical assistance as defined under 405 IAC 10-2-1(48).
(ii) A HIP Link member who is pregnant at the end of her benefit period and chooses to remain in HIP Link at her redetermination.
(iii) Section 1931 parents and caretaker relatives as defined under 405 IAC 10-2-1(46).
(F) Services required under the state's essential health benefits requirements under the HIP Link alternative benefit plan pursuant to 42 CFR 440.347, if:
(i) said services are not covered by the HIP Link employer's ESI plan after the HIP Link member exhausts all appeal processes under section 13 of this rule; and
(ii) the office determines said services should be covered pursuant to the state's essential health benefits requirements set forth in the HIP Link alternative benefit plan.

(Office of the Secretary of Family and Social Services; 405 IAC 10-11-2)

405 IAC 10-11-3 Individual eligibility

Authority: IC 12-15-44.2-19
Affected: IC 12-15-44.2-20

Sec. 3. (a) An individual who is an employee shall be eligible for participation in HIP Link if the individual is:
(1) eligible for HIP under 405 IAC 10-4-1;
(2) an employee eligible to participate in the employer's HIP Link eligible ESI plan; and
(3) employed by an employer that is contributing at least fifty percent (50%) of the premium cost to the employee's HIP Link eligible ESI plan.

(b) An individual who is not an employee shall be eligible for participation in HIP Link if the individual is:
(1) eligible for HIP under 405 IAC 10-4-1; and
(2) eligible to participate in the HIP Link eligible ESI plan as a:
(A) spouse; or
(B) dependent
of an employee enrolled in a HIP Link eligible ESI plan.

(Office of the Secretary of Family and Social Services; 405 IAC 10-11-3)

405 IAC 10-11-4 Individual enrollment

Authority: IC 12-15-44.2-19
Affected: IC 12-15-44.2-20

Sec. 4. (a) An individual may choose to apply for coverage in the HIP Link program. An individual applies for HIP Link as follows:
(1) If the individual is submitting an application for coverage, such individual shall select HIP Link coverage on the application.
(2) If the individual is a current HIP member or is receiving benefits in any Medicaid category, the member shall report a change to the division.

(b) An individual shall not be enrolled in HIP Link until the division processes the application request and verifies eligibility for HIP Link.

(c) A HIP Link member who transfers or disenrolls from HIP Link under section 7 of this rule shall not be allowed to reenroll in HIP Link unless it is during an employer's special enrollment or open enrollment period. An individual shall have only one (1) opportunity to enroll in HIP Link during any employer's special enrollment period every two (2) years.

(Office of the Secretary of Family and Social Services; 405 IAC 10-11-4)

405 IAC 10-11-5 HIP Link coverage

Authority: IC 12-15-44.2-19

Affected: IC 12-15-44.2-20

Sec. 5. (a) For purposes of this rule, the member's HIP Link benefit period shall align with the employer's benefit period.

(b) Once a HIP Link member is approved for HIP Link coverage and begins receiving benefits under this rule, such member shall continue to receive benefits in accordance with HIP Link eligible ESI plan and wraparound services. A HIP Link member shall not transfer to HIP during the HIP Link benefit period except upon the occurrence of a qualifying event in accordance with section 7 of this rule.

(c) For an individual who is not a HIP member or Medicaid recipient, HIP Link coverage shall begin as follows:

(1) Once the division verifies that an individual is enrolled in a HIP Link eligible ESI plan, HIP Link coverage shall begin as follows:

(A) If the division verified that the individual was receiving HIP Link eligible ESI coverage on the first of the month in which eligibility was determined, the first of that month.

(B) If the division verified that the individual shall be receiving HIP Link eligible ESI coverage on the first of the following month, then the first day of the following month.

(C) If the division verified that the individual shall be receiving HIP Link eligible ESI coverage on a date after the first of the following month, the first date of the month following the date that the individual begins receiving ESI coverage. While awaiting HIP Link coverage, such individual shall be subject to conditional enrollment in accordance with 405 IAC 10-3-2.

(2) If the division cannot verify that an individual shall be enrolled in a HIP Link eligible ESI plan, the individual shall be subject to conditional enrollment in HIP Plus in accordance with 405 IAC 10-3-2.

(d) For a HIP member, HIP Link coverage shall begin on the later of the following:

(1) The first day of the month following the division's verification that the individual was receiving HIP Link eligible ESI coverage.

(2) The first of the month following the beginning date of the HIP Link eligible ESI coverage.

A HIP member pending verification or enrollment in HIP Link shall remain enrolled in the HIP category of benefits the member was receiving.

(e) For purposes of this subsection, a Medicaid recipient shall not be eligible to begin HIP Link coverage during any month in which the individual is receiving Medicaid coverage. For a Medicaid recipient, HIP Link coverage shall begin as follows:

(1) If the division verifies that a recipient is enrolled in HIP Link eligible ESI coverage, HIP Link coverage shall begin on the first of the month following the division's verification. If an individual is receiving Medicaid coverage during the month of verification or the month following verification, the first of the month following the month in which Medicaid coverage ends.

(2) For any individual not described in subdivision (1), HIP Link coverage shall begin in accordance with subsection (c)(1) or (c)(2) as applicable.

(f) HIP Link coverage shall be limited to the following:

(1) Premiums, copayments, or other out-of-pocket expenses for covered services under the HIP Link eligible ESI plan up to the amount of the POWER account.

(2) Wraparound services to the extent not offered by the employer's ESI plan.

(g) A HIP Link member who becomes pregnant and transfers to HIP shall receive benefits in accordance with 405 IAC 10-4-6. A HIP Link member who becomes pregnant and chooses to remain enrolled in HIP Link shall:

(1) receive wraparound services as defined in section 2(9) of this rule; and

(2) receive reimbursement for the entire amount of the cost of her portion of the ESI premium for the duration of the pregnancy and for a period of sixty (60) days after the pregnancy ends.

(h) A HIP Link member may transfer to HIP if the member submits a written attestation to being medically frail on a form provided by the office pursuant to the process outlined in 405 IAC 10-6-1. A member who submits this attestation shall be transferred to HIP and receive HIP Plus benefits.

(i) A HIP Link member who exhausts the POWER account funds established under section 8 of this rule shall be responsible for any copays or other cost sharing as set forth in 405 IAC 10-10-3(b) until such member's incurred expenses reach five percent (5%) of the member's quarterly household income as defined in 405 IAC 10-2-1(26). A HIP Link member described in this subsection may be subject to transfer under section 7(c)(3) of this rule. A HIP Link member's monthly two percent (2%) premium contribution shall count toward this five percent (5%) out-of-pocket contribution limit.

(Office of the Secretary of Family and Social Services; 405 IAC 10-11-5)

405 IAC 10-11-6 Redetermination

Authority: IC 12-15-44.2-19
Affected: IC 12-15-44.2

Sec. 6. (a) A HIP Link member shall be subject to a redetermination process at the end of the employer's benefit period to determine continued eligibility for participation in HIP Link. A HIP Link member may be asked to submit documentation necessary for the division to determine continued eligibility. A HIP Link member may elect to transfer to HIP during the redetermination period.

(b) If a HIP Link member does not provide the requested documentation under subsection (a) before the end of the employer's benefit period, the member shall be disenrolled from HIP Link. However, within ninety (90) days of the end of the expired benefit period, such HIP Link member may submit the requested information to the division without having to reapply for the plan. Such member shall not be eligible to receive services during this ninety (90) day period.

(c) A HIP Link member disenrolled under subsection (b) shall not be allowed to reapply for HIP Link or HIP for six (6) months from the date of disenrollment unless such member is:
(1) medically frail;
(2) a Section 1931 parent and caretaker relative;
(3) eligible for transitional medical assistance;
(4) a low income dependent; or
(5) eligible for an exception under 405 IAC 10-10-13.

(d) Notwithstanding subsection (a), a HIP Link member shall report any change that may impact such member's eligibility to the division within thirteen (13) days following such change. A HIP Link member who does not timely report such changes may be subject to recoupment of the cost of any benefits provided to such member during any period of ineligibility.

(Office of the Secretary of Family and Social Services; 405 IAC 10-11-6)

405 IAC 10-11-7 Member transfers and disenrollment

Authority: IC 12-15-44.2-19
Affected: IC 12-15-44.2-20

Sec. 7. (a) A HIP Link member may only make changes to HIP Link enrollment during any of the following:
(1) The initial eligibility determination.
(2) The HIP Link member's redetermination period.
(3) The employer's open enrollment period.
(4) Upon the occurrence of a qualifying event described in subsection (b).

(b) Upon the occurrence of a qualifying event, a HIP Link member may be subject to transfer in accordance with subsection (d) to HIP Plus during the member's HIP Link benefit period described under section 5(a) of this rule. Such member shall be subject to the HIP enrollment requirements under 405 IAC 10-4-2. For purposes of this rule, a qualifying event includes any of the following:
(1) The employer or ESI plan is determined to no longer meet the eligibility requirements under section

10 of this rule.
(2) The HIP Link member no longer meets the eligibility criteria under section 3 of this rule but remains eligible for HIP under 405 IAC 10-4-1.
(3) The employer withdraws from participation in the program.
(4) The HIP Link member becomes pregnant.
(5) The HIP Link member attests to being medically frail under section 5(h) of this rule.
(6) The HIP Link member meets the definition of Section 1931 parent and caretaker relative under 405 IAC 10-2-1(46).
(7) The HIP Link member meets the definition of transitional medical assistance under 405 IAC 10-2-1(48).
(8) The HIP Link member exhausts the member's POWER account and the member's out-of-pocket contributions reach or exceed five percent (5%) as described under section 5(i) of this rule.

(c) A transfer to HIP Plus under this section shall be as follows:
(1) A HIP Link member shall be transferred to HIP Plus upon the occurrence of any qualifying event listed under subsection (b)(1) through (b)(3).
(2) A HIP Link member may elect to transfer to HIP Plus upon the occurrence of any qualifying event listed under subsection (b)(4) through (b)(7).
(3) If a HIP Link member meets subsection (b)(8), the office may consider one (1) or more of the following conditions when determining whether the HIP Link member can remain in HIP Link:
(A) The period of time remaining in the HIP Link member's benefit period.
(B) The HIP Link member's medical claims history.
(C) The potential financial impact to the state of transferring the HIP Link member to HIP Plus.
(D) Any other conditions the office determines to be relevant to the specific HIP Link member.
A member who remains in HIP Link under this subsection shall continue to be eligible for HIP Link coverage under this rule.

(d) A HIP Link member who becomes pregnant may elect coverage as follows:
(1) If such member is not at her redetermination period described in section 6 of this rule, she may:
(A) transfer to Medicaid for pregnant women;
(B) transfer to HIP; or
(C) remain enrolled in HIP Link.
(2) If such member is pregnant at her redetermination period, she may:
(A) remain enrolled in HIP Link; or
(B) transfer to Medicaid for pregnant women.

(e) A HIP Link member who no longer meets the eligibility requirements for HIP under 405 IAC 10-4-1 shall be disenrolled from HIP Link.

(f) A HIP Link member who voluntarily disenrolls from HIP Link outside of the circumstances outlined in section 7(a) of this rule shall be disenrolled from HIP Link and not be allowed to reenroll in HIP Link or HIP for six (6) months from the date of disenrollment, subject to the exceptions listed under section 6(b) of this rule.

(Office of the Secretary of Family and Social Services; 405 IAC 10-11-7)

405 IAC 10-11-8 HIP Link POWER account

Authority: IC 12-15-44.2-19
Affected: IC 12-15-44.2-20

Sec. 8. (a) The office shall maintain a HIP Link POWER account for HIP Link members to cover the following consistent with this rule:
(1) Monthly premiums.
(2) Out-of-pocket health care expenses.
(3) Wraparound services.
The office shall contribute a fixed amount to the account at the beginning of the HIP Link benefit period for each HIP Link member on the HIP Link eligible ESI plan. The POWER account funds of each HIP Link member on the same ESI plan may be pooled into one (1) POWER account.

(b) The office shall reconcile this account following the HIP Link member's redetermination period under section 6 of this rule. The office shall contribute a fixed amount to an account tied to a new HIP Link benefit period at the beginning of such period.

(c) The HIP Link member shall be responsible for a portion of the member's premium cost not to exceed two percent (2%) of the household income of all HIP Link members on the same ESI plan.

(d) The HIP Link employer shall deduct the full premium amount from the HIP Link member employee's payroll. The office shall reimburse the HIP Link member employee the amount of the employee's portion of the premium in excess of the amount calculated under subsection (c).

(Office of the Secretary of Family and Social Services; 405 IAC 10-11-8)

405 IAC 10-11-9 HIP Link rollover

Authority: IC 12-15-44.2-19
Affected: IC 12-15-44.2-20

Sec. 9. (a) The HIP Link member may be eligible for a discounted premium contribution of up to fifty percent (50%) for a portion of the next HIP Link benefit period if a balance remains in the HIP Link member's POWER account after reconciliation. Such member must also have been enrolled in HIP Link for a period of twelve (12) consecutive months.

(b) If a HIP Link member has also met the member's preventive care services or wellness plan participation goals as set by the office for the expiring benefit period, such member may receive an additional premium contribution discount of up to fifty percent (50%).

(Office of the Secretary of Family and Social Services; 405 IAC 10-11-9)

405 IAC 10-11-10 HIP Link employer eligibility requirements

Authority: IC 12-15-44.2-19
Affected: IC 4-21.5-3; IC 12-15-44.2-20; IC 27-8-13.4-2; IC 27-13-7-7.5

Sec. 10. (a) Election to participate in HIP Link is optional for the employer. An employer may withdraw from HIP Link at any time.

(b) An employer shall meet the following business operation requirements to participate in HIP Link:
(1) Maintain a valid certificate of existence or authorization issued by the state in which the employer is incorporated.
(2) Have a valid federal employer identification number.
(3) Employ at least one (1) employee who is a resident of the state of Indiana.

(c) An employer shall contribute at least fifty percent (50%) of the annual premium costs for the HIP Link eligible employee's ESI plan.

(d) In order for an employer's ESI plan to be approved for HIP Link, the employer must attest to and provide supporting documentation as requested by the office that the employer's ESI plan:
(1) complies with the Mental Health Parity and Addiction Equity Act of 2008, under 45 CFR 146.136 and 45 CFR 147.160;
(2) complies with IC 27-8-13.4-2(a) or IC 27-13-7-7.5; and
(3) offers health coverage benefits in compliance with the law, such that:
(A) its ESI plan complies with the essential health benefits requirements set forth in 42 CFR 440.347; or
(B) its ESI plan:
(i) provides the minimum value within the meaning of 26 U.S.C. 36B(c)(2)(C)(ii);
(ii) provides substantial equivalence to the benefits described in clause (A) as determined by the

office; and
(iii) is recognized as minimum essential coverage within the meaning of 45 CFR Part 156.

(e) An ESI plan that is approved for HIP Link shall be affordable as defined in section 2(1) of this rule. The office shall review each ESI plan cost structure to determine whether the ESI plan is affordable.

(f) An employer shall meet the reporting requirements under section 11 of this rule to remain eligible to participate in HIP Link.

(g) An employer's continued compliance with this section is a condition of participation in HIP Link.

(h) An employer seeking to appeal an adverse determination under this rule shall do so in accordance with IC 4-21.5-3.

(Office of the Secretary of Family and Social Services; 405 IAC 10-11-10)

405 IAC 10-11-11 Employer reporting requirements

Authority: IC 12-15-44.2-19
Affected: IC 12-15-44.2-20

Sec. 11. (a) An employer who has been approved for participation in HIP Link shall submit an initial enrollment verification to the office within five (5) days of receiving notice from the office of an employee applying for HIP Link, containing the following:
(1) Confirmation that the applicant is a current employee or will become an employee of the employer.
(2) Enrollment status of the applicant and the applicant's spouse or dependents, if applicable, in the ESI plan.
(3) The premium amounts of the applicant enrolled in the ESI plan.

(b) An employer shall submit a monthly enrollment verification to the office containing the following:
(1) Confirmation of all HIP Link members employed by employer and enrolled in the ESI plan.
(2) The premium amounts for all HIP Link members enrolled in the ESI plan.

(c) An employer shall submit an enrollment verification within thirty (30) days of the end of each open enrollment period for each HIP Link eligible ESI plan, containing the following:
(1) Confirmation of all HIP Link members enrolled in HIP Link eligible ESI plan for the new ESI benefit period.
(2) The premium amounts for all HIP Link members enrolled in HIP Link eligible ESI plan for the new ESI benefit period.
(3) Notification of any changes to the ESI plan coverage for the new benefit period that would alter the employer's attestations under section 10(d) of this rule.

(d) An employer shall provide written notice to the office within thirteen (13) days, subsequent to any of the following occurrences outside of the ESI plan's open enrollment period:
(1) An adjustment in the employer's ESI plan premium rates.
(2) A change in the employer's ESI plan coverage that would alter the employer's attestations under section 10(d) of this rule.

(Office of the Secretary of Family and Social Services; 405 IAC 10-11-11)

405 IAC 10-11-12 Provider reimbursement; rates

Authority: IC 12-15-44.2-19
Affected: IC 12-15-44.2-20

Sec. 12. (a) To receive reimbursement under this section, an entity providing services covered under the employer's ESI plan shall enroll as a provider with the office.

(b) An entity providing services covered under the employer's ESI plan shall receive reimbursement in accordance with the rates subject to that plan. For services provided to a HIP Link member outlined in section 5(f) of this rule, the provider may receive payment at the reimbursement rate contractually paid under the applicable ESI.

(c) If the ESI plan does not cover the service but it is a wraparound service, the provider shall be reimbursed for such service at the Medicaid rate as established by the Indiana Medicaid state plan.

(d) The office shall reimburse a provider for federally qualified health center services at the federally required prospective payment system rate in accordance with 42 CFR 447.331, if such rate is higher than the provider's ESI plan rate.

(e) An entity seeking reimbursement for any services provided to HIP Link members shall first submit the claims to the ESI plan before sending to the office for processing. Failure to do so shall result in a denial of such claim and other sanctions appropriate.

(Office of the Secretary of Family and Social Services; 405 IAC 10-11-12)

405 IAC 10-11-13 Appeals

Authority: IC 12-15-44.2-19
Affected: IC 4-21.5; IC 12-15-44.2-20

Sec. 13. (a) In the event that the office takes an action as defined in 405 IAC 10-5-1 that the HIP Link member or applicant believes was taken erroneously, such person or entity may request an administrative hearing under 405 IAC 1.1. An action taken by the employer's insurance plan shall not be considered an action by the office that may be appealed under this section except as in accordance with subsection (e).

(b) An aggrieved HIP Link member who:
(1) files an appeal prior to the effective date of the adverse action; and
(2) remains enrolled in a HIP Link eligible ESI plan;
may continue receiving HIP Link benefits in accordance with this rule until the administrative law judge issues a decision after the hearing under 405 IAC 1.1-1-6. A member continuing benefits under this section must continue to comply with the eligibility requirements under this rule.

(c) A HIP Link member shall not be eligible to continue receiving benefits under this section if the action resulted from a determination by the office that:
(1) the ESI plan is no longer available to the HIP Link member; or
(2) the ESI plan no longer meets the requirements under section 10 of this rule.

(d) If the administrative law judge overturns the action on appeal, the office shall make corrective payments to the HIP Link member back to the date of the erroneous determination, when applicable.

(e) For any dispute regarding services provided under the HIP Link member's ESI plan, the HIP Link member must first exhaust the ESI plan's internal appeals procedure prior to pursuing further remedy or appeals with the office.

(f) A HIP Link employer or other entity may appeal an action by the state under IC 4-21.5.

(Office of the Secretary of Family and Social Services; 405 IAC 10-11-13)

Notice of Public Hearing

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